



**MILPITAS CITY COUNCIL MEETING AGENDA *REVISED***  
**JANUARY 3, 2006**

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**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)**  
**455 E. CALAVERAS BOULEVARD**

**COUNCILMEMBER GIORDANO ONLY: 1916 GRAND TETON DRIVE (CLOSED SESSION ONLY)**

**SUMMARY OF CONTENTS**

**I. ROLL CALL (6:00 p.m.)**

**II. ADJOURN TO CLOSED SESSION**

**Councilmember Giordano will participate by telephone conference call**

**CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

**(Pursuant to California Government Code Section 54957.6)**

**City Negotiators: Art Hartinger, Ed Kreisberg, Carmen Valdez**

**Employee Organizations: Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF), Protech**

**Under Negotiation: Wages, Hours, Benefits, Working Conditions**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

**(Pursuant to California Government Code Section 54956.9(a))**

**City of Milpitas v. City of San Jose, Case No. CV046013, Santa Clara County Superior Court**

**III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present**

**IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**

**V. INVOCATION (Councilmember Livengood)**

**VI. APPROVAL OF CITY COUNCIL MEETING MINUTES**

**November 28, 2005**

**November 29, 2005**

**November 30, 2005**

**December 6, 2005**

**VII. SCHEDULE OF MEETINGS**

**VIII. PRESENTATIONS (None)**

**IX. CITIZENS FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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**X. ANNOUNCEMENTS**

- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with Asterisks)**
- XIV. PUBLIC HEARING**
1. Weed Abatement Hearing and Adoption of Resolution Directing Abatement Program (Staff Contact: Fire Marshall Patricia Joki, 586-3370)
- XV. UNFINISHED BUSINESS (None)**
- XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**
- RA1. Call to Order by the Mayor**
- RA2. Roll Call**
- RA3. Approval of Meeting Minutes (December 6, 2005)**
- RA4. Approval of Agenda and Consent Calendar**
- \*RA5. Authorize the City Manager to Execute an Agreement Amendment for Consultant Services: Swinerton Management & Consulting for Various Projects (Staff Contact: Mark Rogge, 586-3403)**
- \* RA6. Award Construction Contract and Approve Budget Appropriation for the Sports Center Pools, Project No. 8180, R.O.W. Custom Enterprises, Inc. (Staff Contact: Greg Armendariz, 586-3317)**
- \*RA7. Authorize the City Manager to Execute an Agreement Amendment and Approve Budget Appropriation: JMH Weiss, Inc., Abel Street Midtown Improvements, Projects No. 8157 and No. 8169 (Staff Contact: Greg Armendariz, 586-3317)**
- RA8. Agency Adjournment**
- XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**
- City Council**
2. Consideration of the Council “Roadmap for Services Improvements” (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Debbie Giordano, 586-3032)
3. Approval of Actions Related to “Tour of California” Bicycle Race (Contacts: Vice Mayor Gomez, 942-1110 and Councilmember Livengood, 262-8761)
- Arts Commission**
- \* 4. Approve Changes to the Arts Commission’s Meeting Schedule and Bylaws (Staff Contact: Kathleen Yurchak, 586-3209)
- Parks, Recreation and Cultural Resources Commission**
- \* 5. Approve One Group and One Individual Youth Sports Assistance Fund Grant Request (Staff Contact: Kerrilyn Ely, 586-3231)

**XVIII. NEW BUSINESS**

- \* 6. Approve Fee Waiver and In-Kind Donation of Equipment, Supplies And Staffing From Various City Departments for the 2006 “Relay For Life” Event at The Milpitas Sports Center June 23-24, 2006 (Staff Contact: Kerrilyn Ely, 586-3227)
- \* 7. Approve Grant Funding Agreement for Santa Clara County Open Space Authority; Alviso Adobe Renovation; Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)

**XIX. ORDINANCES**

- 8. Waive First Reading Beyond the Title and Introduce Ordinance 239.5 Amending Title XI, Chapter 16 Sections 16-10, 16-11, and 16-14 of the Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control (Staff Contact: Darryl Wong, 586-3345)
- \* 9. Waive Second Reading and Adopt Ordinance No. 23.10 Repealing Title I, Chapter 2 of the existing Milpitas Municipal Code on Purchasing and Replacing with Title I, Chapter 2, Sections 1 through 12 (Staff Contact: Chris Schroeder, 586-3161)

**XX. RESOLUTIONS**

- \* 10. Adopt Resolution Granting Initial Acceptance for Abel/Calaveras Right Turn Lane, Project No. 4186 (Staff Contact: G. Armendariz 586-3317)
- \* 11. Adopt Resolution Approving Revised Disadvantaged Business Enterprise (DBE) Program Goal for Federally Funded City Transportation Projects (Staff Contact: Mark Rogge, 586-3403)

**XXI. BIDS AND CONTRACTS**

- \* 12. Award the Bid for Sunnyhills Fire Station Partition Wall Reconstruction (Staff Contact: Chris Schroeder, 586-3161)
- \* 13. Approve Agreement Amendment: Lowney Associates, Main Sewage Pump Station Site Improvements, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)
- \* 14. Award the Bid for the Ford F250 Service Body (Staff Contact: Chris Schroeder, 586-3161)
- \* 15. Authorize City Manager to Execute Agreement Amendment: RBF Consulting, Main Sewer Pump Station Improvements Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)
- \* 16. Authorize City Manager to Execute a Cost Sharing Agreement with VTA; Project Study Report for Calaveras Boulevard Widening and Operational Improvements Between Milpitas Boulevard and I-880 (Staff Contact: Greg Armendariz, 586-3317)

**XXII. CLAIMS AND DEMANDS**

- \* 17. Approve Payment Requests to Two Vendors (Staff Contact: Chris Schroeder, 586-3161)

**XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, JANUARY 17, 2006 AT 7:00 P.M.**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public.  
Commissions, boards, councils and other agencies of the City exist to conduct the people's business.  
This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
E-mail: [rpioroda@ci.milpitas.ca.gov](mailto:rpioroda@ci.milpitas.ca.gov) / Fax: 408-586-3030 / Phone: 408-586-3040

*A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.*

**BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:  
*Community Advisory Commission (alternate)*  
*Economic Development Commission (rep. for Hotel Industry)*  
*Recycling and Source Reduction Advisory Commission (alternate)*  
*Telecommunications Commission*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

## **AGENDA REPORTS**

### **XIV. PUBLIC HEARING**

- 1. Weed Abatement Hearing and Adoption of Resolution Directing Abatement Program (Staff Contact: Fire Marshall Patricia Joki, 586-3370)**

**Background:** At its meeting of December 6, 2005, the Council adopted Resolution No. 7568 declaring weeds on certain described properties to a public nuisance and setting a public hearing for January 3, 2006. A copy of Resolution No. 7568 was forwarded to the Santa Clara County Agricultural Commissioner. A notice of public hearing was subsequently published in the newspaper and property owners mailed a notice of the proposed abatement by the County. The purpose of the public hearing is for property owners who object to the removal of the weeds to state their objections before the weeds are removed and the costs made a lien upon the property. A list of properties to be abated is included in the Council's agenda packet along with a resolution directing the County Agricultural Commissioner to abate the weeds.

**Recommendation:**

1. Hear testimony, if any, and Close the public hearing.
2. Adopt Resolution directing the County Agricultural Commissioner to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council, in accordance with the Milpitas Municipal Code.

### **XV. UNFINISHED BUSINESS (NONE)**

### **XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor**

**RA2. Roll Call**

**RA3. Approval of Meeting Minutes (December 6, 2005)**

**RA4. Approval of Agenda and Consent Calendar**

- \* RA5. Authorize the City Manager to Execute an Agreement Amendment for Consultant Services: Swinerton Management & Consulting for Various Projects (Staff Contact: Mark Rogge, 586-3403)**

**Background:** The City previously contracted with Swinerton Management & Consulting, Inc., for project management services relating to various Midtown projects, including site preparation for the Library and Garage projects. Staff recently issued a Request for Proposals for additional project management services as we move in to the next phase of development, leading to construction. Staff is in the process of completing the due diligence for this selection process and expects to return to the City Council on February 7<sup>th</sup> to recommend new contracts for needed project management services, after reporting to the library Subcommittee and the Senior Facilities Subcommittee.

Staff is recommending this amendment to extend the current contract with Swinerton until February to continue making progress on time-critical work related to Midtown projects. Work is included in the Land Acquisition and Site Preparation, Project 8154; North Main Street Development EIR Mitigations, Project 8169; and the Main Sewage Pump Station, Project 6104.

**Recommendation:** Authorize the City Manager to execute the agreement amendment with Swinerton Management & Consulting in the amount of \$76,000, subject to approval as to form by the City Attorney.

**\* RA6. Award Construction Contract and Approve Budget Appropriation: Sports Center Pools, Project No. 8180, R.O.W. Custom Enterprises, Inc. (Staff Contact: G. Armendariz, 586-3317)**

**Background:** On November 15, 2005, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project provides for the resurfacing of the Sports Center swimming pools, which was originally programmed for 2007/08. However, due to extreme wear and tear due to heavy use, the resurfacing improvements are needed before next summer's swim program. The Engineer's estimated construction cost was \$174,000.

The project was advertised and sealed bid proposals were opened on December 15, 2005. One bid proposal was received from R.O.W Enterprises Inc. in the amount of \$175,000.

A budget appropriation in the amount of \$210,000 which includes a construction contingency, materials testing and inspection, is required to award this project. RDA Tax increment funding is available for this appropriation. This advances the \$300,000 Pool Resurfacing Project that was scheduled to be appropriated in FY 07/08 as shown in the Council approved 2005-2010 Capital Improvement Program Final Report.

**Recommendation:**

1. Approve a budget appropriation for \$210,000, from RDA Tax Increment.
2. Award Construction Contract to R.O.W Custom Enterprises, Inc. in the amount of \$175,000.

**\* RA7. Authorize the City Manager to Execute an Agreement Amendment and Approve Budget Appropriation: JMH Weiss, Inc., Abel Street Midtown Improvements, Project No. 8157 and Project 8169 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On March 25, 2004, the City Council awarded a consultant services agreement to JMH Weiss, Inc. to provide base mapping, utility mapping, and to design street improvements on Abel Street from Weller Lane to Great Mall Parkway to address the appropriate upgrades and additions required to create a boulevard corridor on Abel Street.

Staff recommends that JMH Weiss perform additional professional engineering services to revise the photometric study; perform additional geotechnical services for work in the creek channel; prepare an exhibit for a possible bus turnout on Curtis Ave; prepare mapping and legal documents and exhibits associated with the parcels of land for senior housing project on Main St; prepare a transition striping exhibit for project phasing near the Corning Ave. intersection with Abel St.; attend design coordination meetings; and reimbursables for printing, reproductions, deliveries, and mileage.

Staff has negotiated a fee for these additional services not to exceed \$24,820, which is considered reasonable for the work. An additional budget appropriation is necessary for this work. Funds are available from the County Infrastructure Escrow Account (developer reimbursements).

**Recommendation:**

1. Authorize the City Manager to execute an Agreement Amendment with JMH Weiss in the amount of \$24,820, subject to approval as to form by the City Attorney.
2. Appropriate \$25,000 from the County infrastructure escrow account (developer reimbursements) to Abel Street Midtown Improvements, Project No. 8157.

**RA8. Agency Adjournment**

## XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

### City Council

#### 2. Consideration of Council “Roadmap for Services Improvements” (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Debbie Giordano, 586-3032)

##### Background:

For the taxpayers and families of Milpitas, the equation is simple: a job creates possibilities and possibilities allow you to buy a home and raise a family in Milpitas. But business as usual can keep us from reaching our goals.

With the adoption of the Reorganization Policies and Guidelines, the City Council said loud and clear that now was the time to take a step back and look at the services provided from the eyes of our customers and to look at creative ways of providing additional services to our customers. This is crucial because the City has the opportunity to either be a deterrent, or a facilitator of businesses and jobs moving into the City. In adopting those guidelines, it was the Council’s intent to make things easier for businesses that choose to move into or do business with our City. In a nutshell, we must facilitate rather than legislate, remove rather than create roadblocks, and provide certainty and appeal in the process to private investors who want to develop a project or create a business here. This is what economic development and creating jobs is all about and it is simple to do.

We have invested substantially in new staff at the highest level of our government and that is a clear indication of our resolve to reform the way Milpitas does business. What we are finding is, when given the opportunity, City staff wants to make Milpitas City Hall more than a workplace, but an idea.

The idea is that **Customer Service** that is helpful, friendly and accountable comes first.

The idea that **Cutting Red Tape** is key to being responsive and fast. We must give new meaning to the term “government time.” This means what once took months must now take weeks and what once took weeks should now take days. We must operate on a similar schedule to business while maintaining a high quality of service.

The idea that **Community Involvement** at the early stages of a development serves the interests of the community, the applicant and the City.

If we are to compete with cities like Santa Clara, Sunnyvale and San Jose, we can no longer afford to do things simply because that is how they have always been done. If we are to compete, we must first put our house in order and this City Council and staff are persistent in refusing to accept the status quo when it has outlived its usefulness.

What we should do and how long it should take is detailed in the attached memo.

##### Recommendation:

Vice Mayor Gomez and Councilmember Giordano recommend that the City Council provide direction to both improve the City’s role in the way it interacts with business and people who do business with the City and services available to businesses and residents of the City by adopting the actions in this memo.

#### 3. Approval of Actions Related to “Tour of California” Bicycle Race (Contacts: Vice Mayor Gomez, 586-3031 and Councilmember Livengood, 586-3027)



**Background:** AEG Cycling has developed a unique week-long "rolling festival" through California that will become one of the nation's largest and most recognized annual special events. The inaugural Tour of California is scheduled for February 19-26, 2006. This international, Tour de France style bicycle (stage) race will feature 15-16 professional cycling teams from around the world competing for the highest prize purse in North America.

It is expected that over one million spectators across the state will attend the inaugural Tour of California, with millions more via television broadcast. As similar platforms, the 2004 Dodge Tour de Georgia captured the attention of the sports industry as nearly 750,000 fans, enthusiasts and visitors from across the U.S. and around the world attended and the San Francisco T-Mobile International plays host to over 400,000 spectators annual for this one-day classic. The event will also be nightly broadcast on ESPN 2.

Scheduled over eight consecutive days, the Tour of California will showcase nearly 1,000 miles throughout California. Bicyclists could tour through a portion of Milpitas on February 21, 2006. Councilmembers have talked with AEG Cycling and a proposed route has bicyclists traveling south from Calaveras Reservoir and down Calaveras Road, making a left on Piedmont Road into Berryessa. The cyclists would then travel up Sierra Road to Felter and down Calaveras exiting the City through Piedmont Road. The route is only a proposed route and could change. Council and staff should take steps that would encourage AEG Cycling to keep the current route through Milpitas.

This event in our city could further the vision of Milpitas as a livable city with diverse and distinctive qualities of life. Areas in which the City could assist may include:

1. Services, equipment and personnel related to road closure
2. Necessary Police and Emergency personnel
3. Community notification regarding course/street closures and assist in distribution
4. Service for clean up of the course in the city
5. Trash containers, dumpsters and trash receptacles areas in the city
6. Creating a cultural festival or recreation event around the tour

**Recommendation:** Direct City staff to begin discussions with AEG Cycling to become a sponsor and supporter of the Tour of California.

#### **Arts Commission**

- \* 4. **Approve Changes To The Arts Commission's Meeting Schedule and Bylaws (Staff Contact: Kathleen Yurchak, 586-3209)**

**Background:** At the November 28, 2005 Arts Commission meeting the Commission discussed changing their meeting schedule to meet alternating months. The majority of the Commission voted to change the Arts Commission meeting dates due to the creation of the Public Art Committee (PAC). The meeting schedule change is being recommended to reduce the impact to the Arts Commission members since they are serving on both the Arts Commission and the PAC, in addition to allowing both the Arts Commission and PAC ample time to work on approved Work Plan projects. The Arts Commission and the PAC would meet alternating months on the fourth Monday at 7:00pm. The meeting schedule would be as follows: PAC would meet January, March, May, July, September and November. The Arts Commission would meet, February, April, June, August, October, and December. Included in the Council's Agenda Packet are the minutes of the November 28, 2005 Arts Commission meeting and the proposed changes to the Arts Commission Bylaws.

**Recommendation:** Approve the proposed changes to the Arts Commission's meeting schedule and the proposed changes to the Arts Commission Bylaws.

#### **Parks, Recreation and Cultural Resources Commission**



\* **5. Approve One Group and One Individual Youth Sports Assistance Fund Grant Request (Staff Contact: Kerrilyn Ely, 586-3231)**

**Background:** On September 20, 2005 the Milpitas City Council approved and appropriated \$8,000.00 for the Youth Sports Assistance Fund for the 2005-2006 budget year. Included in the Council packet for review and consideration is one (1) Group and one (1) Individual Youth Sports grant application:

One (1) Individual Youth Sports Assistance Fund Application was received from A.J. Almaraz, requesting \$500.00 to offset travel expense costs to attend a national invitation only "Tournesport" baseball tournament held in Oahu, Hawaii from December 28, 2005 to January 5, 2006.

This individual application falls within the guidelines, under section, "Funding consideration will be given", item #4 states; "As an event occurring where additional funding is required for a special event where participants are advancing beyond the normal spectrum of league play, hence additional expenses."

One (1) Organizational Youth Sports Assistance Fund Application was received from Milpitas North Little League, requesting \$1000.00 to offset the cost of purchasing one set of safety bases for \$400.00 and \$600.00 to provide seven to eight eligible Milpitas youth scholarships for the 2005-06 Little League season.

This organizational application meets the eligibility for the grant process. Staff has reviewed the items requested and has found that the requested items meet the application guidelines, under the section, "Acceptable Funding consideration will be given, page 2 item #3 states; "To one time activities or capital equipment purchases designed to address a need or problem which organization cannot routinely finance."

There is currently a balance of \$2,500.00 in the 2005-06 Youth Sports Assistance Fund.

The Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed the applications on December 5, 2005 and recommended both grant applications be forwarded to council for approval.

**Recommendation:** Approve one (1) Individual request for \$500.00 to A.J. Almaraz and one (1) Organizational request for \$1,000.00 to Milpitas North Little League for \$1,000.00 leaving a grant fund balance of \$1,000.00 for the remainder of the fiscal year.

**XVIII. NEW BUSINESS**

\* **6. Approve Fee Waiver And In-Kind Donation of Equipment, Supplies And Staffing From Various City Departments For The 2006 "Relay For Life" Event At The Milpitas Sports Center June 23-24, 2006 (Staff Contact: Kerrilyn Ely, 586-3227)**

**Background:** For the past six years the American Cancer Society with the volunteer support of numerous Milpitas community members and businesses has hosted the annual Relay for Life fundraising event at the Milpitas Sports Center.

The City of Milpitas has a long history of supporting this annual event with services, staff support and equipment on varying levels. The Relay for Life representative has prepared a complete list of requested items for fee waiver or donations for the City Council to consider for approval.

Relay for Life is requesting that City Council approve the waiver or donation of the following. Staff has provided estimated departmental costs associated with each requested item:

Recreation Services:

● Use of Football Field - June 23 to June 24	\$1,110.00
\$150.00 deposit	
\$960.00 rental fees (48hours @ \$20.00 per hour)	
● Use of white event fencing for Kids Camp area	\$ no cost
Volunteer's pickup, set-up and return	
● Use of Mobile Stage *	\$ 770.00
\$700.00 (2 days @ 350.00per day)	
\$70.00 in part-time staff time (5 hrs @\$15.00)	
<i>*Towing to be paid by Relay for Life/ ACS</i>	
● Use of two EZ –Up shade structures	\$ no cost
Volunteer's pickup, set-up and return	
Total from Recreation Services	\$1,880.00

Park Services

● Use of Football Public Address system	
● Trash cans/ Garbage cans	
● Field Prep and track dragging for event	
● Water / irrigation turned off during event	
● Restrooms opened and secured as needed	
● Weekend Crew point of contact during the event	
Staffing (10 hours @ 40.00 per hr)	\$400.00
● Use of sand for luminaries	
● Use of two (2) John Deere tractors	\$200.00
Total from Park Services	\$600.00

Fire Department

● Fire site/ event inspection & permits	\$204.00
Site Plan and Review	
● Provision of First Aid by Fire Aids during event	\$ no cost
● Provide Safe House	\$50.00
\$50.00 Towing and fuel	
\$ 0 Volunteer Fire Aids	
● Use of four MFD generators	\$ no cost
Picked up and delivered by volunteers	
● Community Fire Aides supplies, food	\$250.00
● Two (2) Emergency Medical Technicians	\$no charge
Total from Fire Department	\$504.00

Police Department

● Officers to escort funds during the evening	
● Police Command RV for on-site banking	
● Use of two (2) 10x 20 canopies	
Total from Police Department	\$300.00

**Recommendation:** Approve Milpitas Relay for Life request for fee waiver and in-kind donation of equipment, supplies and staffing totaling \$ 3,284.00 for the June 23-24, 2006 “Relay for Life” event at the Milpitas Sports Center.

- \* 7. **Approve Grant Funding Agreement: Santa Clara County Open Space Authority; Alviso Adobe Renovation; Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project is included in the approved five year Capital Improvement Program and will be implemented in phases based on funding availability. The first phase would be to provide structural stabilization and structural upgrades of the historic Alviso Adobe building, in order to stop further deterioration and prevent complete loss of the building due to an earthquake. This phase is recommended to move forward, independent of the other phases for this reason.

The second phase would consist of design and construction of the public access, vehicular parking, and park improvements. The third and final phase would include the historic restoration of the Adobe building, allowing public access on an appointment basis (to the first floor only.)

Staff is currently working on resolving the access and parking issues with the Calvary Church and Alviso Adobe Court residents. Meanwhile staff applied for and has obtained a grant from the Open Space Authority in the amount of \$356,837 for site improvements of this project. Included in the Council's packet is a draft copy of the funding agreement for this grant.

The Open Space Authority through this grant agreement will allow the City to initially use these funds for the first phase of work involving the building stabilization and structural upgrades. Because this grant is intended for open space and development of new parks, the City in turn agrees to construct the Alviso Adobe park improvements within three years (Dec. 31, 2008). If the City cannot construct the park improvements by this date, the City then would return the grant funds to the Open Space Authority.

Concurrently, the environmental review process is also under way. Part of this process includes review and analysis of other alternatives which have been brought forward by the Alviso Adobe Court residents. It is anticipated that this effort will be completed in late January 2006, including a meeting with the residents to review, discuss and obtain their consensus on a preferred access alternative. Staff will then bring a final recommendation for public access for this facility in February 2006.

The following is a preliminary project schedule:

Complete Environmental Studies	February 2006
Issues Request for Proposals for building stabilization and structural upgrades (Phase I)	March 2006
Council approval of design agreement	May 2006
Complete Design of Phase I	December 2006
Award Phase I Construction Contract	March 2007
Complete Phase I Construction	September 2007

**Recommendation:** Approve the Grant Funding Agreement

## **XIX. ORDINANCES**

### **8. Waive First Reading Beyond the Title and Introduce Ordinance 239.5 Amending Title XI Chapter 16 Sections 16-10, 16-11, and 16-14 of the Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control (Staff Contact: Darryl Wong, 586-3345)**

**Background:** This item is a staff recommendation to update Chapter 16 of Title XI on urban runoff and stormwater pollution control. A revision is necessary to strengthen inspection enforcement and address reimbursement for spill clean-up. Key changes to the ordinance include:

1. Clarification of Accidental Discharge (Section XI-16-10)
2. Addition of reimbursement for spill -clean up (Section XI-16-11)
3. Clarification of Enforcement (Section XI-16-14)

Staff recommends the introduction of the ordinance.

**Recommendation:**

1. Waive first reading beyond the title.

2. Introduce Ordinance 239.5 amending Chapter 16 of Title XI Sections 16-10, 16-11, and 16-14 of the Milpitas Municipal Code regarding stormwater and urban runoff pollution control, subject to approval as to form by the City Attorney.
- \* 9. **Waive Second Reading and Adopt Ordinance No. 23.10 Repealing Title I Chapter 2 of the existing Milpitas Municipal Code on Purchasing and Replacing with Title I, Chapter 2, Sections 1 through 12 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Ordinance No. 23.10 was introduced at the December 6, 2005 Council meeting and is now ready for a second reading and adoption. This ordinance replaces the old ordinance by updating it to be in conformance with changes in the State Public Contract Code.

**Recommendation:**

1. Waive second reading
2. Adopt Purchasing Ordinance No. 23.10.

## **XX. RESOLUTIONS**

- \* 10. **Adopt Resolution Granting Initial Acceptance: Abel/Calaveras Right Turn Lane, Project No. 4186 (Staff Contact: Greg Armendariz 586-3317)**

**Background:** This project provided the addition of a right turn lane on Abel Street (northbound Abel Street to eastbound Calaveras Blvd). The City Council awarded the project to OC Jones & Sons, Inc. on November 16, 2004.

The project has been successfully completed, and staff recommends that Council grants an initial acceptance subject to a one-year warranty and authorizes the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$86,795.

**Recommendation:** Adopt resolution granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to \$86,795.

- \* 11. **Adopt Resolution Approving Revised Disadvantaged Business Enterprise (DBE) Program Goal for Federally Funded City Transportation Projects (Staff Contact: Mark Rogge, 586-3403)**

**Background:** Title 49 of the Code of Federal Regulations (CFR) requires a recipient of Department of Transportation (DOT) funds to have a DBE program and establish an annual overall percentage goal for disadvantaged businesses in City Contracts. The purpose of the DBE program is to afford disadvantaged business enterprises as defined in Title 49 CFR, the maximum opportunity to participate in projects financed with DOT funds, to ensure nondiscrimination on award of DOT contracts. The DBE program also creates a level playing field on which disadvantaged businesses can compete fairly for DOT-assisted contracts. The City is currently positioned to receive \$705,000 in DOT Surface Transportation Funds (STP) as part of the funding for street resurfacing and reconstruction projects.

The City is required to review the overall DBE goal annually and report any changes to Caltrans. Staff prepared a revised draft DBE program goal which Caltrans, the local administrative agency, approved. The revised DBE program goal has been advertised for comments as required by regulations. No comments were received during the required advertisement period. The final revised DBE program goal has now been prepared and is ready for adoption by the City Council.

**Recommendation:** Adopt resolution approving revised Disadvantaged Business Enterprise (DBE) program goal for the 2005/2006 fiscal year.

## **XXI. BIDS AND CONTRACTS**

- \* 12. **Award the Bid for the Sunnyhills Fire Station Partition Wall Reconstruction (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On November 10<sup>th</sup>, 2005 staff went out to bid to reconstruct the partition wall at the Sunnyhills Fire station. The wall was deteriorating due to dry rot and had to be rebuilt. Purchasing sent bids to eleven (11) contractors on Purchasing's bidders list. Three (3) responded and the bids are summarized below:

<u>Swanson Construction</u>	<u>Ranis Construction</u>	<u>Decon Construction</u>
\$31,478.00	\$14,000.00	No Bid

(Sufficient funding has been allocated in Project 8135, Miscellaneous Building Improvements for the purchase.)

**Recommendation:** Award the bid and authorize the City Manager to execute a contract to reconstruct the Partition Wall at the Sunnyhills Fire Station to Ranis Construction & Electric, Inc. as the low bidder for the not to exceed amount of \$14,000.00, subject to approval as to form by the City Attorney.

- \* 13. **Approve Agreement Amendment: Lowney Associates, Main Sewage Pump Station Site Improvements, Project No. 6079 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On April 6, 2004, the City Council awarded a consultant contract to Lowney Associates (Lowney) for geotechnical and environmental services for the main sewage pump station. Work included subsurface investigation and testing of materials in the abandoned sewage treatment facilities to be removed from the site. Phase I of this project included demolition, earthwork and proper handling and disposal of the sewage treatment facilities and their contents. This agreement was amended to add additional contingency scope and contingency budget of \$24,900, based on time and materials for any unknown conditions encountered and the anticipated technical support from Lowney. Design of the demolition and hazardous materials removal has been completed.

Design is now underway for Phase II of the project, which includes site improvements and an operations building for corporation yard activities. Additional geotechnical services are needed for design of elements, such as foundations and pavement sections and for engineering support. Staff recommends that the scope of work be amended to provide geotechnical services for the Phase II work. The \$24,900 allowance that was already approved will cover the additional scope services that are proposed for Phase II. No new funding is needed.

**Recommendation:** Approve the agreement amendment with Lowney Associates, subject to approval as to form by the City Attorney.

- \* 14. **Award the Bid for the Ford F250 Service Body (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The FY 05/06 Vehicle purchases included a Ford F250 Cab and Chassis for the Parks Division. Working with representatives from Parks and Fleet Maintenance, Purchasing developed specifications for a Service Body for the vehicle and sent bids to four (4) regional and Bay Area dealers on Purchasing's bidders list. All four responded and the bids are summarized below:

	<b>Jack Hubbard</b>	<b>Stiles Truck Body</b>	<b>Western Truck</b>	<b>Pacific Truck</b>
<b>Service Body</b>	6,450.00	6,518.00	7,195.00	7,943.00
Freight	.00	.00	.00	.00
Delivery	.00	500.00	.00	.00
3 Yr. Warranty	Yes	Yes	Yes	Yes
Delivery Time	8 Weeks	8 Weeks	8 Weeks	8 Weeks
<b>Tax</b>	532.13	537.74	593.67	655.30

<b>Total</b>	<u>6,982.13</u>	7,555.74	7,788.67	8,598.30
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(Sufficient funding has been allocated in the FY 05/06 Equipment Fund for the purchase.)

**Recommendation:** Award the Service Body to Jack Hubbard Sales, Inc. in the amount of \$6,982.13 including tax.

- \* **15. Authorize the City Manager to Execute Agreement Amendment: RBF Consulting, Main Sewer Pump Station Improvements Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project is included in the current five-year Capital Improvement Program (CIP). The completed project will provide for the design and construction of a new Main Sewage Pump Station. The existing lift station, which was constructed nearly 40 years ago, is beyond the design life and is susceptible to damage from a significant seismic event.

Phase one of the project included design of the new Corp. Yard for maintenance. RBF Consulting provided environmental consulting for this portion of the project. Moving forward with the new Sewage Pump Station design requires additional environmental services through an amendment for this phase of the project.

Staff recommends that RBF Consulting provide the required environmental services for this project. Staff has negotiated a scope and fee for these services not to exceed \$4,000, which is considered reasonable for the work involved. The current project budget is sufficient to fund the services for this amendment.

**Recommendation:** Authorize the City Manager to execute an agreement amendment with RBF Consulting for an amount not to exceed \$4,000 for the environmental services needed for the design of the new sewage pump station.

- \* **16. Authorize the City Manager to Execute a Cost Sharing Agreement with VTA; Project Study Report for Calaveras Boulevard Widening and Operational Improvements Between Milpitas Boulevard and I-880 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** At it's meeting on September 2, 2003, the City Council approved a prioritization of projects that was submitted to the VTA for consideration in their Local Streets and County Roads portion of the VTP 2030. The VTA received 109 project submittals from member agencies (including four projects from Milpitas), which were scored and ranked for priority of funding. The Calaveras Boulevard Widening and Operational Improvements project was ranked number one of all projects submitted. The VTA Board of Directors adopted the VTP 2030 in February 2005.

The Project Study Report (PSR) is the initial step of the project development process with Environmental, Preliminary Engineering, Final Design, Right-of-Way and Construction to follow. The estimated cost of the project is \$40 million of which \$32 million has been identified for State funding. State Transportation Improvement Project (STIP) funds should be available starting in year 2008 for the development of the project. The PSR must be completed prior to the project becoming eligible for STIP funding, and positions this project as "shelf ready"

The Cost sharing agreement proposes the following:

- VTA will contract design consultant services for the Project study report;
- VTA will administer the consultant design;
- VTA will pay \$150,000 for these services;
- City cost share is \$200,000 for these services (from developer traffic impact fees – KB homes and Veritas);
- The Project study report is estimated to be completed by December 2006 (12 months)



The proposed Scope of Work for the PSR is as follows:

- Review and analyze replacement of railroad overcrossing bridge structures (4 total) widening to six lanes (3 in each direction) bike lanes and eight-foot wide sidewalks on both sides
- Review bike and pedestrian alternatives such as separate bike lanes and pedestrian only sidewalks or combined pedestrian and bike sidewalks (ped/bikesidewalks would be extra wide 12' –14' wide)
- Review and analyze Calaveras Boulevard roadway widening, from Abel Street to Abbott Avenue, widening would consist of adding a westbound auxiliary lane (similar to the one westbound lane in front of Town Center).

**Recommendation:** Approve Cost Sharing Agreement with VTA; Project Study Report for the Calaveras Boulevard Widening and Operational Improvement Project between Milpitas Boulevard and I-880.

## **XXII. CLAIMS AND DEMANDS**

### **\* 17. Approve Payment Requests to Two Vendors (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$5,700.17 to Compucom for the annual renewal fee of McAfee Active Virus Defense software to protect the City's computer network. (Funding is available in CIP #8093 Telecommunications Infrastructure Project for this purchase.)
2. \$8,355.00 to Yellowfish Promotions for the purchase of 2,500 miniature recycling carts with turning wheels and opening lids. Yellowfish Promotions represents manufacturers of specialty items. This company conducts product and pricing research of national and international manufacturers. Other manufacturers that make similar items are located overseas and do not meet the two requirements of: 1) recycled content and 2) blue cart with gray lid. Staff is requesting that the merchandise be purchased as a sole source procurement as sanctioned in section I-2-5.03-4 of the Milpitas Municipal Code.

(Funding for this purchase is included in Engineering operating budget.)

**Recommendation:** Approve the payment request.

## **XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, JANUARY 17, 2005 AT 7:00 P.M.**